

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

vs.

PAUL DANIEL GARNER,

Defendant.

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CRIMINAL NO. 04-00230-CG

ORDER

This matter is before the court on the motion of defendant, Paul Daniel Garner, for sentencing transcript at government expense. (Doc. 52). Defendant requests that the Government provide defendant, an indigent prisoner, with the transcript for the purpose of filing a “collateral appeal” of his sentence. The court notes that defendant currently has no post conviction proceeding pending.

“[A] federal prisoner has no absolute right to copies of court records to search for possible defects merely because of [her] status as an indigent.” Bennett v. United States, 437 F.2d 1210, 1211 (5th Cir. 1971). “An impoverished defendant who seeks a transcript must first articulate a claim which necessitates reference to the record.” Byrd v. Wainwright, 722 F.2d 716, 718 (11th Cir. 1984) (citing Draper v. Washington, 372 U.S. 487, 495, 83 S.Ct. 774, 778-779, 9 L.Ed.2d 899 (1963)). Because defendant has no motion for collateral relief pending, he has no right to a free transcript.

Therefore, defendant’s motion for sentencing transcript (Doc. 52) is **DENIED**

DONE and ORDERED this 14th day of July, 2006.

/s/ Callie V. S. Granade
CHIEF UNITED STATES DISTRICT JUDGE